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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,214	06/21/2001	Frank Melzer	LO25-003	8415

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WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.  
601 W. FIRST AVENUE  
SUITE 1300  
SPOKANE, WA 99201-3828

EXAMINER

SHAHER, RICKY D

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

09/888,214

Applicant(s)

MELZER ET AL

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 5-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 and 10 6) ☐ Other: \_\_\_\_\_

Art Unit: 2872

1. Applicant's election of group I (claims 1-4) in Paper No. 11 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 15-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 11.
3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4 are vague, indefinite and fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention due to the fact that claims 1-4 set forth a method of joining together a multiplicity of optical elements on a basic body but fail to include any method steps

In claim 1, lines 2-3, "the individual optical elements" lacks proper antecedent basis.

In claim 4, lines 1-2, "the faceted mirror" lacks proper antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2872

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Holderer et al ('189).

To the extent the claims are definite, Holderer et al discloses a multiplicity of optical elements (7), which may include mirrors (see column 3, lines 41-44), on a basic galvanically formed body (2,3), note figures 1-3 and associated description thereof, wherein the optical elements (mirrors) are connected to the body by galvanoplastic joining techniques (see column 3, lines 45-53 and claim 1).

As to the language "used...system", recited in claim 4, lines 2-3, such language is directed to intended use which does not serve as a basis for patentability as is well set out in patent law. See in re Harao, 535 F.2d 67, 190 U.S.P.Q. 15 (CCPA 1976), In re Casey, 152 U.S.P.Q. 235 (CCPA 1967), In re Otto, 136 U.S.P.Q. 458, 459 (CCPA 1963) and Kropa v. Robie, 88 U.S.P.Q. 478, 481 (CCPA 1951).

6. The disclosure is objected to because of the following informalities: the reference to the features of claims 1 and 12, found on page 2 of the specification, is improper. The claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims maybe ascertainable by reference to the description.

Appropriate correction is required.

7. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS // April 19, 2003

*R.D. Shafer*  
R.D. SHAFER  
APR 19 2003